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B U L L E T I N

Assignment And Garnishment Of Wages In Illinois

UNIVERSITY OF ILLINOIS BULLETIN



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EDITORIAL NOTE

The main body of this *Bulletin* is devoted to an explanation of the Illinois wage assignment and garnishment laws. A brief discussion of the modern problem of small credit and a discussion of the laws of other states introduce the discussion. Several related credit issues are touched on in conclusion. These sections are designed to place the Illinois legislation in a broader setting.

This *Bulletin* does not pretend to consider the question of consumer credit generally.

The material on wage assignment and garnishment legislation in Illinois will be republished by the Institute in handbook format for use as a ready reference. This handbook will be one in a series on various aspects of Illinois labor law now planned by the Institute.

Additional copies of this *Bulletin* are available. A charge of five cents a copy will be made, except that the first 10 copies will be furnished free of charge to individuals and groups in Illinois. Also available are copies of these other Institute *Bulletins*.

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ASSIGNMENT AND GARNISHMENT OF WAGES IN ILLINOIS

By MURRAY EDELMAN*

Since the end of the war, the amount of borrowing by consumers has increased sharply. The number of loans for which workers have assigned their future pay to creditors has also increased sharply. Many wage earners have been able to borrow or buy on credit with ease mainly because they could rely on their wages as security. Because the state permits wage assignment and garnishment, stores, loan agencies, and other sources of consumer credit are able to cut down the risks of the trade.

In the case of a wage assignment, the worker has given a creditor a contract providing that the creditor can take his wages directly from his employer if the loan is not repaid when due. In the case of garnishment, the creditor has proved to a court that the worker owes some money, that he has not paid it back on time, and that to take his wages directly from the employer is the only way to collect the debt. In either case, the creditor may be a store which has sold the wage earner some goods on credit; it may be a finance company which lends cash sums; it may be a credit union, or any other person or firm to whom the worker owes money.

In most states a man may not assign his future wages to a creditor unless the state legislature has enacted a law permitting it. In no state is garnishment of wages possible unless there is a state law permitting it. Illinois has had a wage assignment law since 1935. The state garnishment law was first enacted in 1872 and was last amended in 1945.

EXTENT OF THE PROBLEM OF SMALL CREDIT

Only in recent times have loans been possible for small borrowers — people who want the money to buy things they need to use right away rather than to help finance business deals. Credit for

* Mr. Edelman was assisted by Richard W. Taylor in the preparation of the material for this publication. He also wishes to acknowledge the helpful assistance of Mrs. Virginia Lehmann and other staff members of the Chicago Legal Aid Bureau and the aid of the Division of Small Loans, Illinois State Department of Insurance.

consumers — the type of credit which may reduce a man's wages through garnishment or assignments — is a significant feature of the American economy. Table I shows how much money loaned by consumer credit agencies has been outstanding at the end of each year since 1929.

TABLE I
TOTAL U. S. CONSUMER CREDIT, 1929-1948
(Estimated amounts outstanding in millions of dollars)

End of Year or Month	Total Consumer Credit	End of Year or Month	Total Consumer Credit
1929.....	7,628	1944.....	5,754
1933.....	3,912	1945.....	6,613
1937.....	7,481	1946.....	10,134
1938.....	7,055	1947.....	13,423
1939.....	7,982	1948.....	
1940.....	9,131	January.....	13,096
1941.....	9,878	March.....	13,423
1942.....	6,461	May.....	13,814
1943.....	5,315	July.....	14,185
		August.....	14,382

Based on table in 34 *Federal Reserve Bulletin* 568 (September, 1948). The decline during 1942-1945 is explained by government restrictions on the extension of credit during these years.

Table II shows the extent of lending in Illinois by the licensed personal finance companies, which offer cash loans in amounts up to \$500. This table reveals a considerable increase since the end of the war in the amount of borrowing in small amounts — which means borrowing by wage earners principally — and a large increase in the proportion of loans for which the borrower assigned his wages to the finance company. Before the war, the loans by personal finance companies that were secured by wage assignments made up about 21 per cent of the total number of loans of such companies. In 1945 they made up 24.4 per cent of the loans; in 1946, 34.5 per cent. In 1947, 219,276 workers assigned their wages to personal finance companies in Illinois in order to get \$34,391,809 in small loans. In addition, a large but unknown number of workers assigned their wages to merchants selling goods on credit and to other types of creditors.

Table III shows the number of garnishment cases that have

TABLE II
LENDING IN ILLINOIS BY SMALL LOAN COMPANIES, 1933-1947

Year	Total Amount Loaned	Total Amount Involved in Wage Assignment Loans	Percentage Wage Assignment Loans Bear to Total Amount	Number of Wage Assignment Loans	Percentage Wage Assignment Loans Bear to Total Number
1933	\$37,141,199	\$5,352,095	14.41	65,154	22.14
1934	45,138,319	6,576,714	14.57	83,902	22.76
1935	52,548,360	8,126,194	15.46	97,767	22.96
1936	58,868,510	9,137,959	15.52	104,423	22.46
1937	65,130,836	9,470,475	14.54	108,210	21.99
1938	63,661,778	9,241,080	14.52	103,729	21.34
1939	78,810,754	11,446,351	14.52	122,761	20.72
1940	85,840,918	13,717,644	15.98	141,276	21.90
1941	87,616,431	13,124,639	14.98	131,834	20.49
1942	70,740,580	12,364,838	17.48	128,331	23.72
1943	73,793,498	17,356,863	23.52	154,388	28.37
1944	77,820,541	16,370,124	21.04	137,113	26.22
1945	83,915,913	16,867,481	20.10	125,985	24.39
1946	106,125,228	31,619,550	29.79	216,155	34.47
1947	131,334,750	34,391,809	26.18	219,276	32.10

Based on annual *Analysis of Reports* filed by *Personal Finance Companies Licensed under the Small Loan Law*. Issued by Division of Small Loans, Department of Insurance.

come up in the Chicago Municipal Court since 1939. This does not give any indication of the amount of money involved, but it does show that a lot of people borrowed small sums and then could not pay them back. Not all of these cases involved the garnishment of wages, as other property may also be garnished, but the vast majority of them did involve wages, according to court officials.

TABLE III
GARNISHMENT CASES IN CHICAGO MUNICIPAL COURT,
1939 TO 1948

1939	13,953	1946	11,944
1940	14,842	1947	14,774
1941	17,867	1948:	
1942	17,229	January	1,419
1943	16,600	February	1,444
1944	14,451	March	1,719
1945	12,528		

THE LAWS OF THE 48 STATES

The various states have faced the issue by following a variety of different courses of action ranging from complete outlawry of garnishments or wage assignments to virtually unrestricted permission to use them. Tables IV and V compare the wage assignment and garnishment laws of the various states with respect to the features of most interest to wage earners and employers.

Thirty-seven states explicitly permit wage assignments by law. It is these 37 laws which are of primary interest here because they permit a comparison with policies which the Illinois legislature has thought wise. It should be noted, however, that wage assignments are not necessarily outlawed entirely in the other 11 states. In those states which have no law, courts have usually ruled that wages not yet earned may not be assigned, although wages already owing to the worker may be.

State laws which permit the assignment of unearned future wages often limit the amount that may be assigned in order to protect the worker from complete destitution. Ten states permit the assignment of no more than 10 per cent of a man's wages. Five states, including Illinois, allow as much as 25 per cent to be assigned. In the others there is no limit.

In nine states a worker may not assign his wages unless he first gets his employer's consent. Illinois has no such requirement. Those who favor it argue that it deprives the creditor of the power to intimidate a worker by threatening to inform his employer of the debt; that the employer will often be able to persuade the employee not to borrow if it is for a non-essential purpose; and that the employer deserves some consideration because the assignment may cause him trouble later. On the other hand, this requirement does give an employer a considerable degree of influence over the worker's private affairs. Twenty-five states give a worker's wife (or husband) the power to prevent his assigning his wages. In Illinois the consent of the spouse is not required.

Illinois is one of five states which specifically requires that a copy of the assignment be given to the borrower. This is quite important because it is an easy and usually effective check on fraud.

TABLE IV
WAGE ASSIGNMENT LAW PROVISIONS^a

State	Assign- ment Per- mitted	Amount of Wage That May Be Assigned	Consent of Em- ployer Required	Recording with Public Official Required	Consent of Spouse Required	Assignor Must Get Copy
Alabama.....	..	.....	..	..	..	..
Arizona.....	*	10% ^b	..	..	*	..
Arkansas.....	*	.....	*	*	*	..
California.....	*	25% ^c	..	*	*	..
Colorado.....	*	10% ^b	..	..	*	..
Connecticut.....	..	.....	..	..	..	..
Delaware.....	..	.....	..	..	..	..
D. C.....	..	.....	..	..	..	..
Florida.....	*	10%	..	..	*	..
Georgia.....	*	10% ^b	..	..	*	*
Idaho.....	..	.....	..	..	..	..
Illinois.....	*	25%	..	..	..	*
Indiana.....	*	.....	*	..	*	..
Iowa.....	*	10% ^b	..	..	..	..
Kansas.....	..	.....	..	..	..	..
Kentucky.....	*	10% ^b	..	..	..	..
Louisiana.....	*	.....	..	..	*	..
Maine.....	*	.....	..	*	*	..
Maryland.....	*	.....	..	*	*	..
Massachusetts...	*	25%	*	*	*	*
Michigan.....	*	10% ^b	..	..	*	..
Minnesota.....	*	10% ^b	*	*	*	..
Mississippi.....	*	.....	*	..	..	..
Missouri.....	* ^d	.....	..	..	..	..
Montana.....	*	.....	..	*	*	..
Nebraska.....	*	.....	..	..	*	*
Nevada.....	..	.....	..	..	..	..
New Hampshire...	*	.....	..	*	..	..
New Jersey.....	*	10% ^b	..	..	*	..
New Mexico.....	*	.....	..	*	*	..
New York.....	*	10%	..	..	..	..
North Carolina...	*	.....	*	..	..	..
North Dakota....	..	.....	..	..	..	..
Ohio.....	..	.....	..	..	..	..
Oklahoma.....	*	10% ^b	..	..	*	..
Oregon.....	*	10% ^b	..	..	..	..
Pennsylvania....	*	.....	..	..	*	..
Rhode Island....	*	.....	..	..	..	*
South Carolina...	..	.....	..	..	..	..
South Dakota....	..	.....	..	..	..	..
Tennessee.....	*	10%	..	..	..	..
Texas.....	*	.....	..	*	*	..
Utah.....	*	10% ^b	..	..	*	..
Vermont.....	*	10% ^b	..	..	*	..
Virginia.....	*	25% ^e	..	..	..	..
Washington.....	*	.....	*	..	*	..
West Virginia....	*	25%	*	..	..	..
Wisconsin.....	*	10% ^b	..	..	*	..
Wyoming.....	*	.....	*	*	*	..

(Information gathered from the revised statutes of the various states.)

^a Some laws apply only to small loans by licensed personal finance companies.

^b Limit applies only to small loans by licensed personal finance companies.

^c Limit is 50% if assignor is not supporting family.

^d Only wages already earned may be assigned.

^e Between \$50 and \$75 is exempt under any circumstances for householders.

Its main shortcoming is that the creditor can easily neglect or refuse to give a copy if the borrower does not know that he is entitled to it. In 11 states, though not in Illinois, the assignment must be recorded with the town clerk or some other public officer. This also serves to check fraud.

Garnishment is not possible in any state unless the legislature has passed a law expressly permitting it. All the states do permit it, but the Pennsylvania and Texas laws allow garnishment only of goods other than wages. Many laws exempt a portion of a man's

TABLE V
WAGE GARNISHMENT LAW PROVISIONS

State	Garnish- ment of Wages Permitted	Amount of Wage Exempted from Garnishment for Household Heads	Public Employees Wages May Be Garnished
Alabama.....	*	\$25 per month ^a	*
Arizona.....	*	50%	*
Arkansas.....	*	No exemption	..
California.....	*	No exemption	*
Colorado.....	*	No exemption	*
Connecticut.....	*	Judge's discretion	*
Delaware.....	*	90% in New Castle County; 60% elsewhere	*
Florida.....	*	100%	*
Georgia.....	*	\$1.25 per day plus 50% of remainder	..
Idaho.....	*	No exemption	*
Illinois.....	*	\$20 per week	..
Indiana.....	*	\$15 per week plus 90% of remainder	*
Iowa.....	*	100%	..
Kansas.....	*	No exemption	*
Kentucky.....	*	No exemption	*
Louisiana.....	*	No exemption	*
Maine.....	*	\$10 per month ^a	..
Maryland.....	*	No exemption	..
Massachusetts.....	*	\$25 per week	*
Michigan.....	*	60% for householder; 30% (\$10 to \$20 per week) for non-householders	*
Minnesota.....	*	\$35 per month plus \$5 for each dependent ^a	*
Mississippi.....	*	\$50 per month	*
Missouri.....	*	90%	*
Montana.....	*	50% when debt is for ne- cessities; 100% otherwise	*
Nebraska.....	*	90%	*

^a Also applies to single men.

wages from garnishment in order to permit him and his family to subsist. The exemption provisions vary so greatly in their terms and qualifications that comparison is difficult; exemption provisions are designed to give special protection to heads of families.

Illinois is one of eight states which does not permit the salaries of public employees to be garnished.¹ This is not usually possible, even in states which have a general garnishment law, unless the law expressly provides for it, because the courts have held that it would

TABLE V
WAGE GARNISHMENT LAW PROVISIONS (Concluded)

State	Garnish- ment of Wages Permitted	Amount of Wage Exempted from Garnishment for Household Heads	Public Employees Wages May Be Garnished
Nevada.....	*	No exemption	*
New Hampshire.....	*	\$10 per week when debt is for necessities; \$20 per week otherwise	*
New Jersey.....	*	No exemption	*
New Mexico.....	*	20% of wages plus amount over \$75; no exemption where debt is for necessities	*
New York.....	*	90% ^a	..
North Carolina.....	*	No exemption	*
North Dakota.....	*	\$20 per week	*
Ohio.....	*	No exemption	*
Oklahoma.....	*	No exemption	*
Oregon.....	*	\$75 per month; but 1/2 this not exempt if debt is for necessities	*
Pennsylvania.....
Rhode Island.....	*	No exemption	*
South Carolina.....	*	100%	..
South Dakota.....	*	No exemption but "op- pressive garnishment" is illegal ^a	..
Tennessee.....	*	No exemption	*
Texas.....
Utah.....	*	No exemption	*
Vermont.....	*	No exemption	*
Virginia.....	*	75% (\$50 to \$75 per month)	*
Washington.....	*	\$20 per week	*
West Virginia.....	*	No exemption	*
Wisconsin.....	*	60% (\$60 to \$100 per month)	*
Wyoming.....	*	No exemption	*

^a Also applies to single men.

interfere with the conduct of the public business. A 1905 Illinois law did subject the salaries of certain public employees to garnishment, but the law was declared invalid by the state Supreme Court because it was badly drafted.²

EMPLOYERS' ATTITUDES

A number of writings on the subject indicate that in the long run the most serious threat to the individual worker from garnishments or wage assignments against him is the danger of loss of his job.*

Employers are naturally reluctant to be served with wage assignments and garnishment judgments. It means added expense, the possibility that they will have to go to court, and uncertainty as to whether the demand for the employee's wages should be honored. Many employers also regard it as evidence that the employee is unreliable.

Business firms vary widely in their policies toward workers whose wages are taken by creditors.† Some discharge the worker — after the first, second, or third time. Others call in the worker and instruct him to settle the account at once so that there will be no more demands. The employee may be suspended until he has paid off his creditors. Since these policies cut off the worker's income, they are not likely to make settlement of his debts any easier.

On the other hand some employers provide legal aid to employees to make sure they will not have to pay unjust debts or to arrange reductions in the amount of the debt with creditors. Credit agencies will often release a wage assignment or agree not to garnish if the employer or the legal aid bureau asks for a settlement and promises to get the employee to pay. A few firms have set up funds from which employees may borrow in emergencies of this kind. More common in recent years has been the establishment of credit unions in the plant.

* Cf. the following books: Clarence W. Wassam, *The Salary Loan Business in New York City*, New York; Charities Publication Committee, 1908, p. 85; Rolf Nugent, John E. Hamm, and Frances M. Jones, *Wage Executions for Debt*, Washington: Government Printing Office, BLS Bulletin No. 622, 1936, pp. 37-38; Louis N. Robinson and Rolf Nugent, *Regulation of the Small Loan Business*, New York: Russell Sage Foundation, 1935, pp. 70-71.

† Cf. Nugent, Hamm, and Jones, *op. cit.*, pp. 37-38.

THE ILLINOIS WAGE ASSIGNMENT LAW³

In the case of a loan in money or goods from a clothing store, jewelry store or other creditor, except a licensed personal finance company or credit union, the Illinois law provides that no wage assignment is good unless the following conditions are met:

1. It must be in writing.
2. It must be signed by the worker.
3. At the time it is signed, it must show the name of the worker, his employer's name, and the date.
4. It must show the amount of money loaned or the price of the goods bought on credit.
5. It must show the rate of interest to be paid and the date that payments are due.
6. The worker must get his money or goods before he signs the wage assignment or at the same time as he signs it.
7. The worker must get an exact copy of the assignment.
8. The words "WAGE ASSIGNMENT" must be printed or written on the assignment in heavy letters at least one-quarter inch high.
9. The wage assignment may not be part of any other paper, such as a contract saying that the borrower does not get the title to the goods until they are paid for.

Demand on Employer for a Worker's Wages

A lender who holds a wage assignment is not allowed to send it to an employer to demand a worker's wages unless:

1. The worker has not made his payments on time.
2. The demand correctly shows how much the worker owes.
3. The creditor shows the employer the original or a photo-static copy of the assignment.
4. The wage earner is working for the same employer as at the time he got the loan.

If any of these conditions is not in effect, the demand for the wages cannot be enforced.

Twenty-five Per Cent Limit

No more than 25 per cent of a worker's wages can be collected by creditors who hold wage assignments. Even if the worker has assigned his wages to more than one creditor, no more than 25 per cent of the wages for any pay period can be collected. The creditors collect in the order in which they serve their demands on the employer.

Time Limit on Wage Assignments

No assignment of wages is good more than three years after the worker signs it and presents it to a creditor. An assignment usually takes the following form:

WAGE ASSIGNMENT

For and in consideration of.....

.....

.....

I hereby assign, transfer and set over to.....

.....

of..... in the..... of.....
in the State of..... 25 per cent of my salary, wages
and other compensation which is now due to me, or which may at
any time hereafter become due to me from.....

.....

with whom I am now employed, until the sum of.....
Dollars and..... Cents is fully paid, together with in-
terest at the rate of..... per cent per annum until paid, said sum
to be paid as follows:.....

.....

.....

.....

I represent that I am now regularly employed by.....

.....

I hereby acknowledge receipt of a true copy of this assignment and my address is.....

In witness whereof I have hereunto set my hand and seal this day of..... A. D. 19.....

.....(SEAL)

The Law in Practice

Laws designed to protect the public depend for their effectiveness largely upon widespread knowledge of their provisions and the extent to which their provisions are applied. A wage assignment is void, for example, if the worker changes employers before he misses payment on his debt. Failure to fill in all the blanks on the form when the assignment is first executed, however, permits the filling in of any employer's name, particularly if the date is also left blank. An Illinois court has ruled that if a buyer of merchandise signs a wage assignment with the blanks not filled in, the seller has the right to fill in the blanks.⁴ If the assignment contract fails to show the borrower's name, his employer's name, the correct date, the amount of money or price of the goods he received, and the date payments are due, the assignment might be used later to collect for an entirely different debt, according to students of this question.

Although the law clearly requires that the worker receive an exact copy of the assignment, those familiar with wage assignment lending know that it is often not given to him. Students of the problem consider this important, for if the worker receives a copy, it is almost certain to be filled out properly and as the law requires. Furthermore, there is less likelihood of misunderstanding or inaccuracy. If the borrower is asked about his debts, for example, and does not list all of them, he may be subject later to a fine or jail penalty for fraud.

The employer, as well as the borrower, runs risks under the law if he is unaware of its provisions. He is not obligated to pay off a wage assignment by one of his employees unless it is a just debt. It sometimes happens that a credit agency confuses similar names and sends the assignment to the wrong employer or names

the wrong employee. If the borrower is a minor, his contract assigning his wages is void. If the debt is more than three years old, the assignment is no longer enforceable. Names are sometimes forged on wage assignments.* Wives have been known to sign their husbands' names. If an employer pays a creditor under any of these conditions, he may have to pay the employee too.

Personal Finance and Credit Union Loans

In the case of a loan from a personal finance company, the wage assignment law is somewhat different from that which applies to other lenders. The creditor does not have to send the employer an original or photostatic copy of the assignment when he demands a man's wages. But there is the same 25 per cent limit on the amount of wages that can be assigned; the same restriction on sending the assignment to an employer unless payments are overdue; and the same provision that no assignment is good unless it was given for a debt already owed.

Credit unions which take wage assignments — and almost all of them do — are not bound by the restrictions of the regular wage assignment law, not even the 25 per cent limit on the amount of wages that may be assigned.⁵

Public Employees

The wages or salaries of public employees in Illinois may not be assigned.

THE ILLINOIS GARNISHMENT LAW⁶

Garnishment is possible under the law only when a worker has no property which can be taken away to pay off his debts; so it is necessary to take property owned by him but held by others. Wages owed by an employer to an employee are the most common type of assets owned by the debtor but not in his possession, and so wages are the most common type of property to be garnished.

* These practices are familiar to persons who work in this field.

Conditions Necessary for Garnishment

A worker's wages may not be garnished unless all the following conditions are met:

1. A court must find that the worker owes a debt to the person asking for a garnishment judgment against his wages.

2. The court must find that the wage earner has no property.* If the creditor knows that the worker has property that can be taken to pay the debt, but makes out an affidavit saying he believes there is no such property in order to get a garnishment judgment, the garnishment is not valid.⁷

An employer who believes that his employee does not really owe the debt or that the proper procedure was not followed before the garnishment judgment was issued may refuse to pay over the man's wages to the creditor and attack the garnishment in court instead.⁸ He may argue that it is not a just debt because the employee is a minor or because the contract was fraudulent, or that the judgment is unenforceable because the debt is more than ten years old.⁹

3. The employer must already owe the wage to the employee. Future wages that have not yet been earned or wages earned after the garnishment judgment is served on the employer may not be garnished.¹⁰

Illinois courts have ruled that an employer and his employee may agree upon advance payment of wages even when the express purpose is to defeat garnishment proceedings.¹¹

4. A demand for the employee's wages must be served upon the employer (personally or at his business place) and upon the employee (personally or at his home) at least 24 hours before suing for garnishment of the worker's wages. Actually this is not done in many cases.¹² After he receives such a demand, the employer must hold wages above the exempted amount (see page 16) for five days or until he receives a garnishment judgment. There must be a separate garnishment for each demand served upon the employer and the worker; a creditor may not get one judgment based upon several demands made at different times.¹³

* The Illinois Exemption Law protects the debtor against the loss of *all* his property through garnishment. It exempts specified personal property. This exemption does not apply, however, when the debt is wages owed a laborer or servant. *Illinois Revised Statutes*, 1947, Ch. 52.

Judgment Notes

To make sure that the worker has no property of his own that can be taken and that his wages may therefore be garnished, the law requires that a bailiff or officer appointed by the court must first investigate and find that this is true. The usual procedure is to have the worker sign a note at the time he gets his loan. In the note he promises to pay back the loan by a certain date and gives the attorney for the credit merchant or loan company authority to "confess judgment" for him — to agree, that is, that his wages may be garnished without his being notified first. The attorney for the creditor simply tells the court in behalf of the worker that he has no property and the court issues a garnishment judgment. The result is that a borrower's wages may be garnished without notice and the chance to settle the debt by another kind of payment first. So long as the law does not ban the use of judgment notes, however, he may have a hard time getting a loan without signing one.

Exemption from Garnishment

A worker who is the head of his family and living with his family is entitled to a \$20 a week exemption from garnishment against his wages, in addition to all regular deductions for taxes and debts he owes his employer. He must give his employer an affidavit saying that he is the head of a family before he is entitled to the exemption. If he files the affidavit, his employer must pay him the \$20. Some early court cases ruled that an employer must "use diligence" to find whether an employee is a family head living with his family and must arrange to claim the exemption for him if this is the case.¹⁴ Many large firms keep blank affidavits on hand for employees to sign if their wages are garnished. The courts have always held that the exemption clause of the Illinois garnishment law should be applied generously so as to carry out the humane purpose for which it was intended.¹⁵

An employer who pays over to the creditor wages which were exempt must pay the employee the exempted amount anyway.¹⁶ But an exemption affidavit filed by an employee protects his employer against action by the creditor to collect the exempted

amount.¹⁷ The exemption applies even to non-residents of the state who are sued in Illinois if their wages were earned in the state.¹⁸

Public Employees

The wages of public employees in Illinois may not be garnished.

RELATED CREDIT PROBLEMS

A number of other phases of the consumer credit question are of at least as much concern to workers as wage assignment and garnishment laws. A brief review, not intended to be an extended analysis, will help place these laws and wage-earner problems arising from them in proper perspective.

Regulation of Interest Rates

Foremost among them is the question of regulation of interest rates. In Illinois the only consumer credit agencies whose rates are regulated by law are the credit unions and the small loan or personal finance companies. Credit unions may not charge more than one per cent a month on unpaid balances. On cash loans of \$500 or less from small loan companies the law fixes the maximum rate at three per cent a month on that part of the unpaid balance up to \$150, two per cent on the unpaid balance between \$150 and \$300, and one per cent on that part of the unpaid balance above \$300. Translated to an annual basis, these rates are high compared to the interest commonly charged on larger loans. On loans up to \$150 the rate is 36 per cent a year.

A number of students of the problem, however, believe that the additional cost and additional risk of small loans make rates approximately those fixed in the Illinois law wholly reasonable and necessary if legitimate loan companies are to continue in business. The rates are comparable to those of other states. Small loans, as well as large ones, involve bookkeeping, investigation, collection expenses, and other servicing. If legal rates are very low, loan sharks charging extremely high rates flourish, for legitimate lenders are driven out of business and black-market lenders will then charge enough to cover the risk of loss, as well as the risk of prose-

cution under the law. Rates as high as 250 per cent a year are not uncommon under these conditions.¹⁹ Illegal loan companies have often been known to lobby before state legislatures for *very low* maximum interest charges in order to drive their law-abiding competitors out of business.

The Illinois small loan law, which fixes these rates, does not apply to sales on the installment plan or to other kinds of consumer credit. Merchants may charge much higher rates for credit than are permitted under the small-loan laws.

The licensed small loan companies are not permitted to add any type of service charge to the interest, but there is no such limitation in Illinois on time payments. Borrowers who are encouraged to buy goods on installments by "easy credit" advertising and published rates that seem low, may not be told in the ads that various other charges are sometimes added: examination fees, service charges, brokerage and commission charges, insurance premiums, and others.

Sources of credit for workers are: credit unions, commercial banks, industrial banks, personal finance companies, merchants that sell on credit. Their policies in making interest and other charges differ.²⁰

Conditional Sales

Illinois has no law regulating conditional sales, although a uniform conditional-sales act has been drafted and passed by nine states and two territories. If there is no law, the buyer of goods on credit who signs a conditional sales contract does not get title to the goods and may not sell them until they are completely paid for. If he fails to make all the payments, the company which sold the goods may take them back, sell them again at any price, and charge the first buyer the difference between the list price and the price at which they were sold. The uniform law requires that the second sale be a public sale to the highest bidder in order to cut down the balance paid by the first buyer. It also permits the first buyer to sell the goods before they are fully paid for, if the payments are up to date and the company which sold them is notified.

Settlement of Debts With Federal Court Aid

The Federal Bankruptcy Act of 1939 provides for the settlement of a wage earner's debts without his having to go through bankruptcy. Any worker earning less than \$3,600 a year is eligible. If such a debtor files a petition in a federal court stating that he cannot pay his debts as they come due, the court will arrange for a meeting of his creditors. The worker is expected to submit a plan of payment, which must be accepted by the creditors before it can go into effect. A trustee handles his money and disburses it according to the plan until all debts are paid.²¹

CONCLUSION

Consumer credit is an increasingly important feature of the American economy, particularly to wage earners. While wage assignment and garnishment laws deal with only one phase of the consumer credit question, their provisions can have important effects on the number and type of loans that are made and on the degree to which creditors, employers, and employees may be benefited or inconvenienced by small loans.

These laws rely for their enforcement almost entirely on court action rather than administrative action. Consequently they depend for their effectiveness largely upon widespread public knowledge of their provisions and upon insistence by creditors, borrowers, and employers that the provisions be carried out. The various states are experimenting with a variety of devices intended to make the laws more effective in carrying out their purposes: to make credit available to consumers and to protect the legitimate interests of creditors.

Notes

1. *Triebel v. Collum*, 64 Ill. 376 (1872).
2. *Badenoch v. City of Chicago et al.*, 222 Ill. 71, 78 NE 31 (1906).
3. *Illinois Revised Statutes*, 1947, Ch. 48, § 39.1-39.9; Ch. 32 § 474 *et seq.*; Ch. 74 § 35.
4. *Goldblatt Bros. v. Jorgenson*, 328 Ill. App. 355, 66 NE (2d) 702 (1946).
5. *Illinois Revised Statutes*, 1947, Ch. 48 § 39.9; Ch. 32 § 474 *et seq.*
6. *Illinois Revised Statutes*, 1947, Ch. 62.
7. *German-American Bank v. Butler-Mueller Co.*, 87 Wis. 467, 58 NW 746 (1894).
8. *Kirk v. Dearth Agency*, 171 Ill. 207, 49 NE 413 (1898); *Iroquois Furnace Co. v. Wilkin Manufacturing Co.*, 181 Ill. 582, 54 NE 987 (1899).
9. See p. 15 above.
10. *State Bank of Chicago v. Boyeson*, 87 Ill. App. 539 (1899); *Pressed Steel Equipment Co. v. Thornburgh Pressteel Co.*, 228 Ill. App. 1, 144 NE 6 (1923), aff. 312 Ill. 359; *Davis v. Siegel, Cooper, and Co.*, 80 Ill. App. 278 (1897).
11. *Wilt for Use of Gudverhahn v. Hartman Trunk Co.*, 215 Ill. App. 182 (1920); *Campagne v. Automatic Electric Co.*, 293 Ill. App. 437, 12 NE (2d) 695 (1938).
12. The demand must be served in person. Registered mail will not do. *Fara v. Reliable Furniture Manufacturing Co.*, 237 Ill. App. 460 (1925). Many lawyers see little point in getting a case dismissed on the ground that this step was omitted since it simply delays the garnishment. The information on this point as well as that regarding judgment notes was obtained from attorneys who regularly deal with garnishment cases in Chicago.
13. *Eitelgeorge for Use of Julian v. General Finance Corp.*, 314 Ill. App. 199, 40 NE (2d) 834 (1942).
14. *Chicago, Rock Island and Pacific Railway Co. v. Mason*, 11 Ill. App. 525 (1882); *Welker v. Hinze*, 166 Ill. App. 326 (1885).
15. *Bliss v. Smith*, 78 Ill. 359 (1875).
16. *Chicago and Alton Railroad Co. v. Ragland*, 84 Ill. 375 (1877).
17. *Chicago and Alton Railroad Co. v. Moore*, 117 Ill. App. 147 (1904).
18. *Mineral Point Railroad Co. v. Barron*, 83 Ill. 365 (1875).
19. Cf. William H. Simpson, "Cost of Loans to Borrowers Under Unregulated Lending," 8 *Law and Contemporary Problems* 73, Winter, 1941; Joe B. Birkhead, "Collection Tactics of Illegal Lenders," *ibid.*, pp. 78-87; William Trufant Foster, "The Personal Finance Business Under Regulation," *ibid.*, pp. 154-172.
20. A useful and easily read discussion of these matters appears in *Credit for Consumers*, a pamphlet published by the Public Affairs Committee, fifth edition, 1945.
21. *U.S. Code*, Title 11, Ch. 13.





